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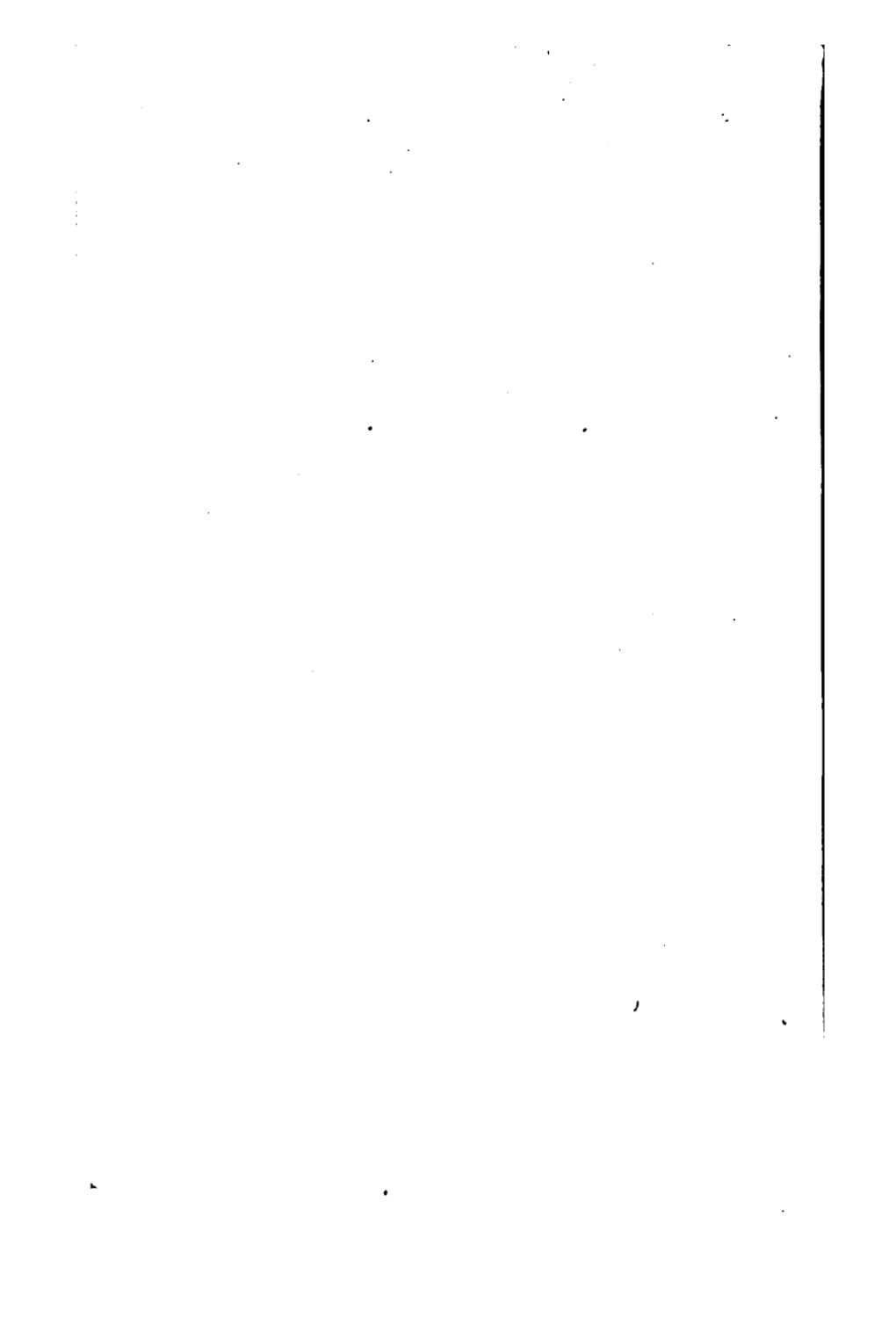
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# **The Investment Tax Law**

**of the State of New York**

**and**

# **The Mortgage Tax Law**

**of the State of New York**

**Guaranty Trust Company  
of New York  
140 Broadway**

**Fifth Avenue Office  
Fifth Ave. & 43d Street**

**London Office  
32 Lombard St., E. C.**

Copyright, 1917  
**Guaranty Trust Company of New York**

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## Foreword

THE INVESTMENT TAX LAW of June 1, 1917, is substantially a reenactment of the SECURED DEBTS TAX LAW as amended in 1916, with a number of important changes.

### THE MAIN DIFFERENCES BETWEEN THE INVESTMENT TAX LAW AND THE SECURED DEBTS TAX LAW.

- A. **Change in definition.** To be an "INVESTMENT," a security must be part of a series of similar securities.
- B. **Change of rate.** The tax is now 20c. *per year* on each \$100 or fraction thereof.
- C. **The tax is now an annual one,** payable at the option of the holder and may be PREPAID FOR A PERIOD OF NOT MORE THAN FIVE YEARS.
- D. **Additional tax in certain cases.** An additional Inheritance Tax at the rate of five per cent. of the appraised inventory value, must be paid upon any "investment" found in the estate of a deceased person upon which the Investment Tax, the Secured Debts Tax or the personal property tax has not been paid.
- E. **When a portion of a bond is an "Investment"** and exemptible only under the Investment Tax Law and another portion is exemptible under the Mortgage Tax Law because the obligation is secured by property within and without the State of New York, if the holder does not desire to pay both taxes but to waive a

determination and pay one tax, he may now pay it only under the Investment Tax Law instead of under the Mortgage Tax Law, as formerly.

### Summary

**What the Investment tax is.** A special tax at a fixed rate payable at the option of the holder in respect to an "investment" which exempts the "investment" for a limited period from personal property tax in the State of New York. (Sec. 331, page 22.)

**Definition of "Investment":** Any bond, note, debt, debenture, equipment bond or note or written or printed obligations forming part of a series of similar bonds, notes, debentures, written or printed obligations which are payable one year or more from their date of issue and which are either secured or unsecured.

### EXCEPT

- (a) Bonds of New York State or any civil division thereof.
- (b) Obligations secured by a deed of trust or mortgage on real property situated wholly within the State of New York.
- (c) Obligations held as collateral to secure the payment of investments taxable under this article, or bonds taxable under the Mortgage Tax Law.
- (d) Such proportion of the obligation secured by deed of trust or mortgage on property or

properties situated partly within and partly without the State of New York, as the value of the mortgaged property or properties situated within the State of New York bears to the value of the entire mortgaged property or properties. (Sec. 330, page 21.)

This definition includes, as bonds which are exemptible, public bonds of States other than New York, and obligations of foreign countries and their political subdivisions. Ordinary promissory notes can not be made exempt.

**Rate of tax.** 20c. per year on each \$100 or fraction thereof of the face value of the "investment." (Sec. 331, page 22.)

**Period of exemption which may be secured.** One or more years, not exceeding five, from the date of the payment of the tax, at the option of the holder. (Sec. 331, page 22.)

**When the tax may be paid.** Any time after June 1, 1917, the date upon which the law became effective. (Sec. 331, page 22.)

**How exemption is secured.** By payment of the tax to the Comptroller of the State of New York at his office in Albany, or at his branch office in the Woolworth Building, New York City. Payment of the tax is evidenced by stamps affixed to the "investment," and cancelled. (Secs. 331, 332, 333, pages 22, 23.)

The "Investment," itself, must be presented and stamped. The Comptroller shall affix to the investment and cancel the stamps evidencing payment of the tax and no exemption shall be valid unless stamps are so affixed and cancelled. (Secs. 332, 333, page 23.)

Investments may be registered, no matter what the denomination. (This continues the provision of the Law of 1915. Under the Law of 1911 they could not be registered if in denominations exceeding \$1,000.)

**Offset of debts.** A person holding an "investment," as defined under the law, permanently for investment purposes, on which the tax has not been paid, may not deduct his just debts against the assessed value of such "investments."

Persons holding "investments," *temporarily in their possession for sale*, and not permanently for invest-

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NOTE—Section 6 of Article 1 of the Tax Law provides that all personal property subject to taxation shall be assessed at its full value, but the owner of personal property shall be allowed a deduction from the full value of his taxable personal property to the extent of the "just debts" owing by him. The "just debts" which may be deducted have been defined in the circular published by the Department of Taxes and Assessments of the City of New York as—

"1—Amount owing on bond and mortgage, on which the person claiming the offset is liable, while he remains the owner.

2—Amount owing on promissory notes.

3—Amount owing on book debits or contracts.

Just debts do not include contingent liabilities as guarantor or endorser, unless such liabilities have become fixed; nor do they include debts incurred for the purpose of evading taxation."

ment purposes, who are actually engaged in the purchase and sale of such securities as a business, and who maintain an office or place of business in this State for carrying on an actual *bona fide* business of purchasing and selling such securities, as distinguished from their purchase for investment, *shall be allowed to deduct their just debts* from the tax against the assessed value of such "investments," *provided that the "investments" have not been owned and held for a longer period than eight months.* (Sec. 336. Page 25.)

**Exemption of secured debts upon which tax has previously been paid.** If the tax has been paid upon a "secured debt" under the Law enacted September 1, 1911, and prior to May 1, 1915, such secured debt is stated to be exempt from personal property tax.

If a "SECURED DEBT" has been exempted under the amendments to the Mortgage Tax Law of 1916, in cases where the "SECURED DEBT" was secured by property within and without the State of New York, such "SECURED DEBT" remains tax exempt. (Sec. 338. Page 26.)

Where the tax has been paid upon secured debts under the Law as amended April 30, 1915, and again amended April 21, 1916, and effective between the first day of May, 1915, and December 31, 1916, such secured debt remains exempt from personal property tax for a period of five years from the date of the payment of the tax. (Sec. 339, page 27.)

## **Additional Tax on Investments**

Upon the transfer, at the time of death of the holder, of any investment as defined in this law, an additional transfer tax (inheritance tax) of five per centum of the appraised value of such investment shall be imposed, unless the tax imposed by this law or by the former Secured Debts Tax Law has been paid for the period including the date of death of the holder, or unless the personal representative of the estate can prove that a personal property tax has been paid thereon during the period such investment has been held. This provision does not apply to securities owned by a decedent who was actually engaged in the business of buying and selling securities when such securities were purchased, if such securities were held for the purposes of his business and not for investment. (Sec. 221-b, Chap. 639, page 28.)

This provision of the law is effective on and after July 1, 1917.

## **History**

The so-called Secured Debts Tax Law was first enacted September 1, 1911, as an addition to Chapter 62 of the Laws of 1909, entitled: "An Act in Relation to Taxation, Constituting Chapter 60 of the Consolidated Laws."

Its first enactment provided for a tax at the rate of one-half of one per cent. on the secured debt, which thereafter was exempt from the personal property tax for an unlimited period. The operation of the Law was

suspended by Chapter 169 of the Laws of 1915, effective April 1, 1915, which provided that secured debts might be registered and the tax paid after May 1, 1915, and which, therefore, suspended the operation of the Act between April 1 and May 1. Chapter 465 of the Laws of 1915 radically amended the Law of 1911: it changed the rate of the tax from one-half of one per cent. to three-quarters of one per cent. and limited the time during which the bonds could be exempted to the period between May 1, 1915, and November 1, 1915, providing that the exemption should be for only five years from the date of payment of the tax.

The Secured Debts Tax Law of 1916, in all its essential features, was the same as the Law of 1915.

Chapter 261 of the Laws of 1916, in effect April 21, 1916, specified the same rate of tax and permitted its payment at any time prior to January 1, 1917, and provided that persons holding "SECURED DEBTS," not as investments but temporarily in their possession for sale, and who were actually engaged in the purchase and sale of securities, might deduct their just debts from the tax against the assessed value of such "SECURED DEBTS" provided they had not owned them nor held them for a longer period than eight months. While the privileges of the law were suspended January 1, 1917, the definition of a "SECURED DEBT" remained in force and without the passage of the present bill under its new name, any person holding an unexempted "SE-

CURED DEBT" on Tax Day could not have offset his just debts against it.

The present Investment Tax Law, with the several changes which have been referred to above is substantially a reenactment of the Secured Debts Tax Law of 1916.

### The Relation of the Investment Tax Law and the Secured Debts Tax Law to the Mortgage Tax Law.

The Mortgage Tax Law was designed as a specific tax on mortgages, recorded in the State of New York and secured by real property therein. Such mortgages are, generally speaking, of two kinds:

- (a) Mortgages given by a corporation or an individual when there is only one bond or obligation, running either to a corporation or an individual.
- (b) Mortgages which are made by corporations, and in certain instances by an individual or individuals, to Trustees, under which a series of bonds or obligations are issued which are held by various persons.

The Law provides that a tax of one-half of one per cent. shall be paid upon all mortgages recorded subsequent to July 1, 1906. If, at the time the obligation was recorded, the entire amount of the mortgage was

not advanced, the tax was to be paid upon the amount then advanced, and upon subsequent advances as they were made. Upon payment of the tax, the obligation or obligations issued thereunder are exempt from personal property tax for the life of the obligation.

In the case of a mortgage recorded prior to July 1, 1906, under which the entire advances had not been made, the tax is required to be paid upon the advances made subsequent to July 1, 1906, and the obligations evidencing such advances, and such only, are tax exempt.

The holder of a mortgage recorded prior to July 1, 1906, or the owner of a serial bond issued and outstanding under a mortgage recorded prior to July 1, 1906, can make the mortgage or bond tax exempt by presenting it to the recording officer of the county where the mortgage was first presented for record and optionally subject it to the mortgage tax on the payment of which the security is exempt from the personal property tax.

The Secured Debts Tax Law was designed to provide a method of exempting from the personal property tax, mortgages upon property lying without the State of New York and recorded without this State, and any other bonds or notes forming part of a series of similar bonds, notes or obligations issued under a deed of trust, irrespective of whether such bonds or notes were secured by a mortgage upon real property. It also applies to

public bonds of States other than New York, and to foreign countries and their political subdivisions.

**The primary purpose of the Mortgage Tax Law was to provide a specific tax, with the accompanying exemption from the general property tax, for mortgages recorded in the State of New York.**

**The primary purpose of the Secured Debts Tax Law was to provide a specific tax, with the exemption from the general property tax, for mortgages, and bonds secured by mortgages, which were recorded without the State of New York, and for other serial obligations.**

**The primary purpose of the Investments Tax Law** is identical with that of the Secured Debts Tax Law, except that the privilege of exemption is limited to serial obligations.

A mortgage secured by real property both within and without the State of New York may be affected by both laws. Property, both within and without the State of New York, in many instances, was covered by corporate mortgages. In such an instance, the mortgagor company was required to have a determination made of the proportion which the value of the mortgaged property situated within the State of New York bore to the value of the entire mortgaged property or properties. The recording tax could only be paid by the mortgagor company in respect to that determined proportion and the serial bonds issued thereunder could

be made tax exempt under the Mortgage Tax Law, only in that proportion. This left, in many instances, a certain proportion of a bond, in the hand of the owner, which was not tax exempt but was subject to the general property tax.

To cure this situation, the Secured Debts Tax Law of 1915 and 1916 provided that the owner of such a bond could exempt such proportion of his bond as was not already exempt under the Mortgage Tax Law by paying seventy-five cents per \$100, or fraction thereof, upon such unexempt proportion. Thereupon, a portion of his bond was exempt for an unlimited period, under the Mortgage Tax Law, and a proportion exempt for a period of Five Years under the Secured Debts Tax Law. To remedy this situation, two amendments to the Mortgage Tax Law, viz: Chapters 335 and 337 of the Laws of 1916, constituting Secs. 260, 264 of the Mortgage Tax Law, were enacted. These provided, in effect, that the mortgagor company, at the time when the mortgage was recorded, might waive the determination of the proportion of the value lying within and without the State of New York and pay the entire tax as if the properties lay wholly within the State of New York and that, thereupon, the bonds should be exempt from the personal property tax. If, however, the mortgagor company did not elect to waive such determination and paid the tax upon only the proportion of the value of the mortgaged properties within the State of New York, the holder of such a bond might, at his option, present the bond to the

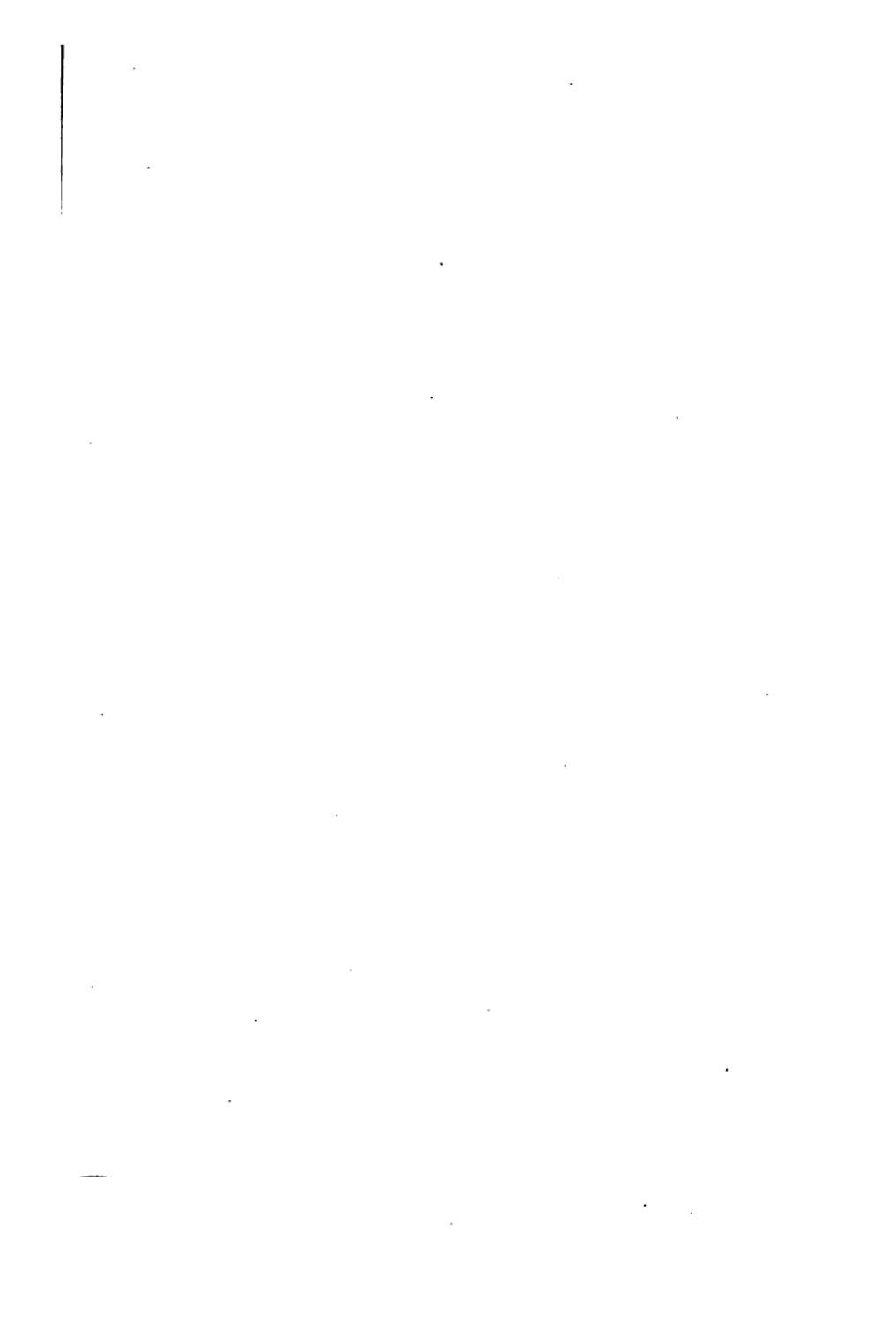
recording officer of the county where the mortgage, under which the bond was issued, was first recorded and himself pay the tax upon the proportion which had not been previously exempted, thereby making his entire bond exempt from the personal property tax. It will thus be seen that the proportion of a bond not exempted by the mortgagor company might have been made exempt either under the provisions of the Secured Debts Tax Law by payment of seventy-five cents per \$100., or fraction thereof, in respect to such proportion, whereupon the exemption ran for only *five years from the date of payment of the tax*, or, under the Mortgage Tax Law, such proportion might have been made exempt *for the life of the obligation* by payment of one-half of one per cent. on such proportion.

It was preponderantly to the interest of the holder of such a security to take advantage of the provision of the Mortgage Tax Law, thereby securing a lower rate of tax and exemption for the life of the obligation. This provision has now been repealed by Chapter 72, Laws 1917, and a similar provision inserted in the Investment Tax Law. Thus the holder may now, as heretofore, waive determination of the proportion of the value lying within and without the State of New York; but to do so, he must pay the full investment tax of twenty cents per \$100 per year, and the "investment" may be made exempt by payment of the tax, for a period of not more than five years.

Under the Mortgage Tax Law, as it now exists, an

investment secured by real property situated both within and without the State of New York cannot be made exempt for life, except upon such proportion of the bond as is secured by property within the State of New York. The amendment of the Mortgage Tax Law nullifies to a large extent the advantage of waiving the determination by the Comptroller. If the holder of a security desires to make his investment exempt for more than two years it is to his advantage to have exempted for life, under the Mortgage Tax Law, such part of the obligation as is represented by property situated within the State of New York, and to have exempted, under the Investment Tax Law, only that part represented by property situated without the State.

For the convenience of the reader, we have included in this booklet the full text of the Mortgage Tax Law, with the amendments thereto enacted during the 1917 session of the Legislature, as well as the full text of the Investment Tax Law.



# **The Investment Tax Law**

**Being Chapter 802 of the Laws of 1911, in effect September 1, 1911, as amended by: Chapter 465 of the Laws of 1915, in effect April 30, 1915; Chapter 261 of the Laws of 1916, in effect April 21, 1916; and Chapter 700 of the Laws of 1917, in effect June 1, 1917.**



## ARTICLE 15

### Tax on Investments

Section 330. Definitions.

- 331. Payment of tax on investments.
- 332. Stamps; how prepared and used.
- 333. No exemption unless stamps are affixed and canceled.
- 334. Contracts for dies; New York city office; expenses, how paid.
- 335. Illegal use of stamps; penalty.
- 336. No deduction of debts against taxable investment.
- 337. Application of taxes.
- 338. Exemption where tax has been paid on secured debts before May first, nineteen hundred and fifteen.
- 339. Exemption where tax has been paid on secured debts between May first, nineteen hundred and fifteen and December thirty-first, nineteen hundred and sixteen.
- 340. Apportionment of value of investment secured by mortgage of property situate partly within and partly without the state.

Sec. 330. Definitions. The word "investments," as used in this article, shall include:

Any bond, note, debt, debenture, equipment bond or note, or written or printed obligation, forming part of a series of similar bonds, notes, debts, debentures, written or printed obligations, which by their terms are payable one year or more from their date of issue and which are either secured by a mortgage, pledge, deposit, or deed of trust, of real or personal property, or both, or which are not secured at all; excepting bonds of this state or any civil division thereof and such bonds, notes, debts, debentures, written or printed obligations, which are secured by a deed of trust or mortgage recorded in the state of New York on real property situated wholly

within the state of New York; excepting also such bonds, notes, debts, debentures, written or printed obligations held as collateral to secure the payment of investments taxable under this article or of bonds taxable under article eleven of this chapter; and excepting also such proportion of a bond, note, debt, debenture or written or printed obligation, secured by deed of trust or mortgage recorded in the state of New York of property or properties situated partly within and partly without the state of New York as the value of that part of the mortgaged property or properties situated within the state of New York shall bear to the value of the entire mortgaged property or properties.

**Sec. 331. Payment of tax on investments.**

After this article takes effect, any person may take or send to the office of the comptroller of this state any investment, and may pay to the state a tax at the rate of twenty cents per year on each one hundred dollars or fraction thereof of the face value of such investment for one or more years not exceeding five, under such regulations as the comptroller may prescribe, and the comptroller shall thereupon affix stamps hereinafter provided for, to such investment, which stamps shall be duly signed by the comptroller or his duly authorized representative and dated as of the date of the payment of such tax. The comptroller shall keep a record of such investment together with the name and address of the person presenting the same and the date of payment of the tax.

All such investments shall thereafter be exempt from all taxation in the state or any of the municipalities or local divisions of the state except as provided in sections twenty-four to twenty-four-g, both inclusive, one hundred and eighty-seven, one hundred and eighty-eight and one hundred and eighty-nine of this chapter, and in articles ten and twelve of this chapter, for the period of years from the payment of such tax for which such tax shall have been paid and such stamps affixed.

**Sec. 332. Stamps; how prepared and used.**  
Adhesive stamps for the purpose of indicating the payment of the tax provided for by this article shall be prepared by the comptroller, in such form, and of such denominations and in such quantities as he may from time to time prescribe. Upon the payment of the tax provided by this article upon any investment the comptroller shall affix stamps of the proper denominations, equal in face value to the amount of tax paid, to the investment, and shall cancel the same by the seal of his office or by such other canceling device as he may prescribe.

**Sec. 333. No exemption unless stamps are affixed and cancelled.** The payment of the tax upon any investment, as provided in this article, shall not exempt such investment from taxation, as provided in section three hundred and thirty-one, unless stamps to

the proper amount are affixed and canceled, as provided in the preceding section.

**Sec. 334. Contracts for dies; New York city office; expenses, how paid.** The state comptroller is hereby directed to make, enter into and execute for and in behalf of the state such contract or contracts for dies, plates and printing necessary for the manufacture of the stamps provided for by this article, and provide such stationery and clerk hire, together with such books and blanks as in his discretion may be necessary for putting into operation the provisions of this article; he shall be the custodian of all stamps, dies, plates or other material or thing furnished by him and used in the manufacture of such state tax stamps. In addition to the receipt of taxes payable as provided in this article at his office in the city of Albany, the comptroller shall maintain an office for the receipt of such taxes in the city of New York. He shall appoint, and may at pleasure remove, such assistants, clerks and other persons as may be necessary to carry out the provisions of this article and shall fix and determine their salaries. All expenses incurred by him and under his direction in carrying out the provisions of this article shall be paid to him by the state treasurer from any moneys appropriated for such purpose.

**Sec. 335. Illegal use of stamps; penalty.** Any person who shall wilfully remove or cause to be removed, alter or cause to be altered the canceling or de-

facing marks of any adhesive stamp provided for by this article with intent to use the same, or to cause the use of the same after it shall have been used, or shall knowingly or wilfully sell or buy any washed or restored stamp, or offer the same for sale, or give or expose the same to any person for use, or knowingly use the same or prepare the same with intent for the further use thereof, or shall wilfully use any counterfeit stamp or any forged stamp with intent to defraud the state of New York, shall be guilty of a misdemeanor and on conviction thereof shall be liable to a fine of not less than five hundred nor more than one thousand dollars, or be imprisoned for not more than six months, or by both such fine and imprisonment at the discretion of the court.

**Sec. 336. No deduction of debts against taxable investment.** The owner of any investment, on which the tax provided for in this article has not been paid, shall be assessed upon such investment in the taxing district in which he resides, upon the fair market value of such investment and no deduction for the just debts owing by him shall be allowed against the assessed value of such investment, as provided in section six of this chapter or elsewhere in this chapter or in any other law of this state except that the deduction from the taxable property permitted by section six of this chapter shall be allowed to any person, in respect of any investment which for the purpose of his business, as hereinafter described and not for or as an invest-

ment, shall be temporarily owned and held for sale by such person then actually engaged in the *bona fide* purchase and sale of such investments as a business, and who then shall have and maintain an office or place of business in this state for the carrying on of the actual *bona fide* business of purchasing and selling such investments as distinguished from the purchase thereof for investment, but such deduction shall not be allowed in respect of investments owned and held for a longer period than eight months.

**Sec. 337. Application of taxes.** The taxes imposed under this article and the revenues thereof shall be paid by the state comptroller into the state treasury and be applicable to the general fund, and to the payment of all claims and demands which are a lawful charge thereon.

**Sec. 338. Exemption where tax has been paid on secured debts before May first, nineteen hundred and fifteen.** If a tax shall have been paid upon a secured debt pursuant to former article fifteen of the tax law prior to May first, nineteen hundred and fifteen, or prior to April first, nineteen hundred and seventeen, under article eleven of this chapter, such debt shall be exempt from taxation hereunder and from all taxation in the state or any of the municipalities or local divisions of the state, except as provided in sections twenty-four to twenty-four-g, both inclusive, one hundred and eighty-seven, one hundred and eighty-eight

and one hundred and eighty-nine of this chapter and in articles ten and twelve of this chapter.

**Sec. 339. Exemption where tax has been paid on secured debts between May first nineteen hundred and fifteen and December thirty-first, nineteen hundred and sixteen.** If a tax shall have been paid upon a secured debt pursuant to former article fifteen of the tax law, between May first, nineteen hundred and fifteen, and December thirty-first, nineteen hundred and sixteen, such secured debt shall be exempt from taxation hereunder, and from all taxation in the state or any of the municipalities or local divisions of the state, for the period of five years from the date of the payment of such tax, except as provided in sections twenty-four to twenty-four-g, both inclusive, one hundred and eighty-seven, one hundred and eighty-eight and one hundred and eighty-nine, of this chapter, and in articles ten and twelve of this chapter.

**Sec. 340. Apportionment of value of investment secured by mortgage of property situated partly within and partly without the state.** If a bond, note, debt, debenture, equipment bond or note, or written or printed obligation be secured by mortgage or deed of trust recorded in the state of New York of property or properties, situated partly within and partly without the state of New York, and a proportion of such bond, note, debt, debenture, equipment bond or note, or written or printed obligation constitutes an investment as

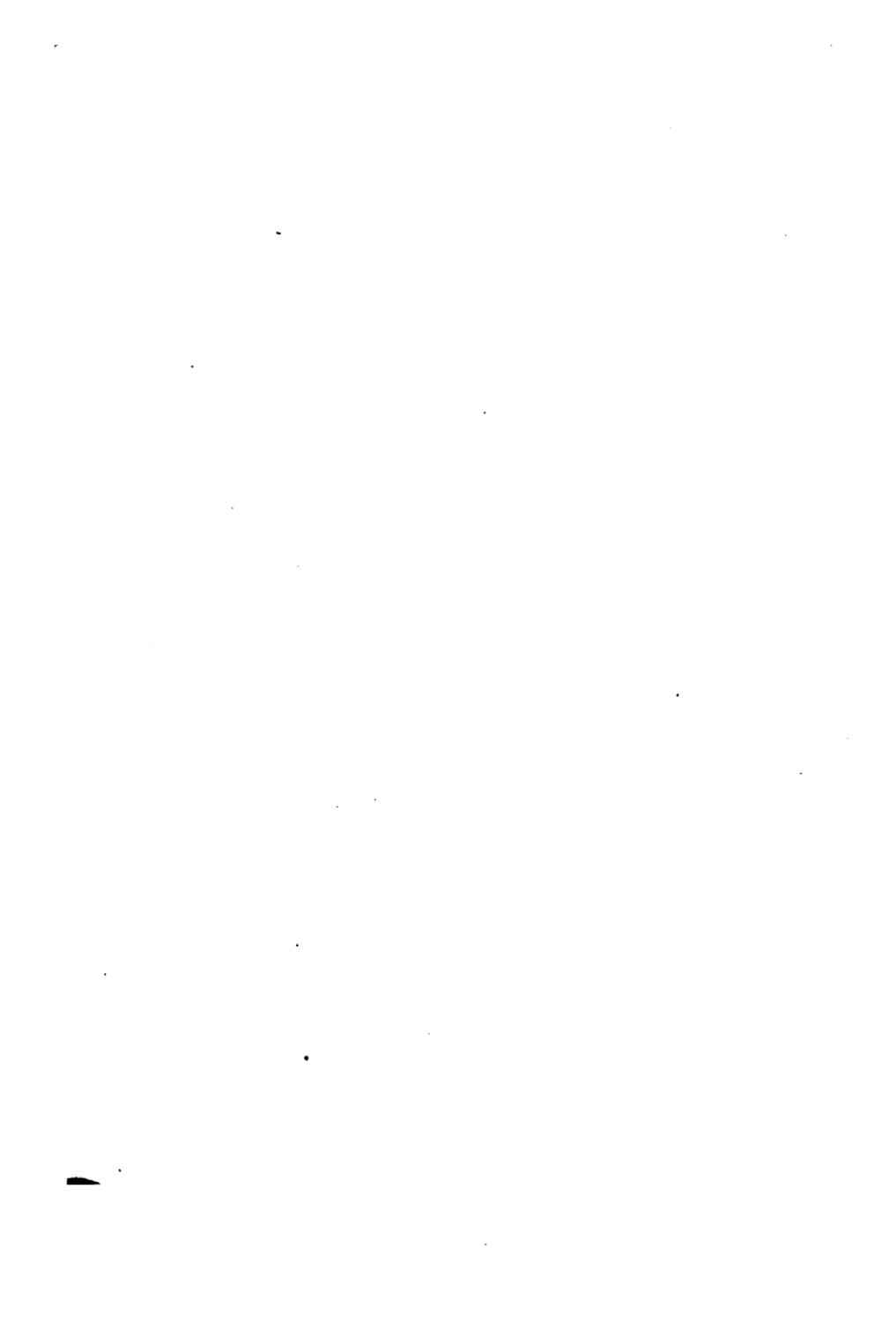
provided by section three hundred and thirty, the holder of such investment may apply to the comptroller for a determination of the proportion of such bond, note, debt, debenture, equipment bond or note, or written or printed obligation which is taxable as an investment under this article, and the comptroller shall, as soon as practicable thereafter, furnish to such applicant a determination upon which the tax imposed by this article on such investment shall be based, which determination shall be in the manner provided for in section two hundred and sixty of this chapter made in respect of the apportionment of the value of such mortgaged property in connection with the recording within the state of New York of the mortgage or other indenture by which such investment may be secured; or may waive such determination and pay the tax upon the full amount of such investment, and thereafter the whole amount of such investment shall be exempt from taxation under the provisions of section three hundred and thirty-one of this chapter.

Sec. 2. Section two hundred and twenty-one-b of such chapter, as added by chapter six hundred and thirty-nine of the laws of nineteen hundred and thirteen, is hereby renumbered section two hundred and twenty-one-c, and a new section two hundred and twenty-one-b inserted to read as follows:

Sec. 221-b. Additional tax on investments in certain cases. Upon every transfer of an investment, as defined in article fifteen of this chapter, taxable

under this article, a tax is hereby imposed, in addition to the tax imposed by section two hundred and twenty-one-a, of five per centum of the appraised inventory value of such investment, unless the tax on such investment as prescribed by article fifteen of this chapter or the tax on a secured debt as defined by former article fifteen of this chapter shall have been paid on such investment or secured debt and stamps affixed for a period including the date of the death of the decedent or unless the personal representatives of decedent are able to prove that a personal property tax was assessed and paid on such investment or secured debt during the period it was held by decedent; or unless the decedent was actually engaged in the *bona fide* purchase and sale of investments as a business, and at the time of his death had maintained an office or place of business in this state for the carrying on of the actual *bona fide* business of purchasing and selling investments, as distinguished from the purchase thereof for investment purposes, and had owned and held such investment for sale for the purpose of his business and not as investment for a period of not more than eight months prior to his death.

Sec. 3. Section one of this act shall take effect immediately. Section two of this act shall take effect July first, nineteen hundred and seventeen.

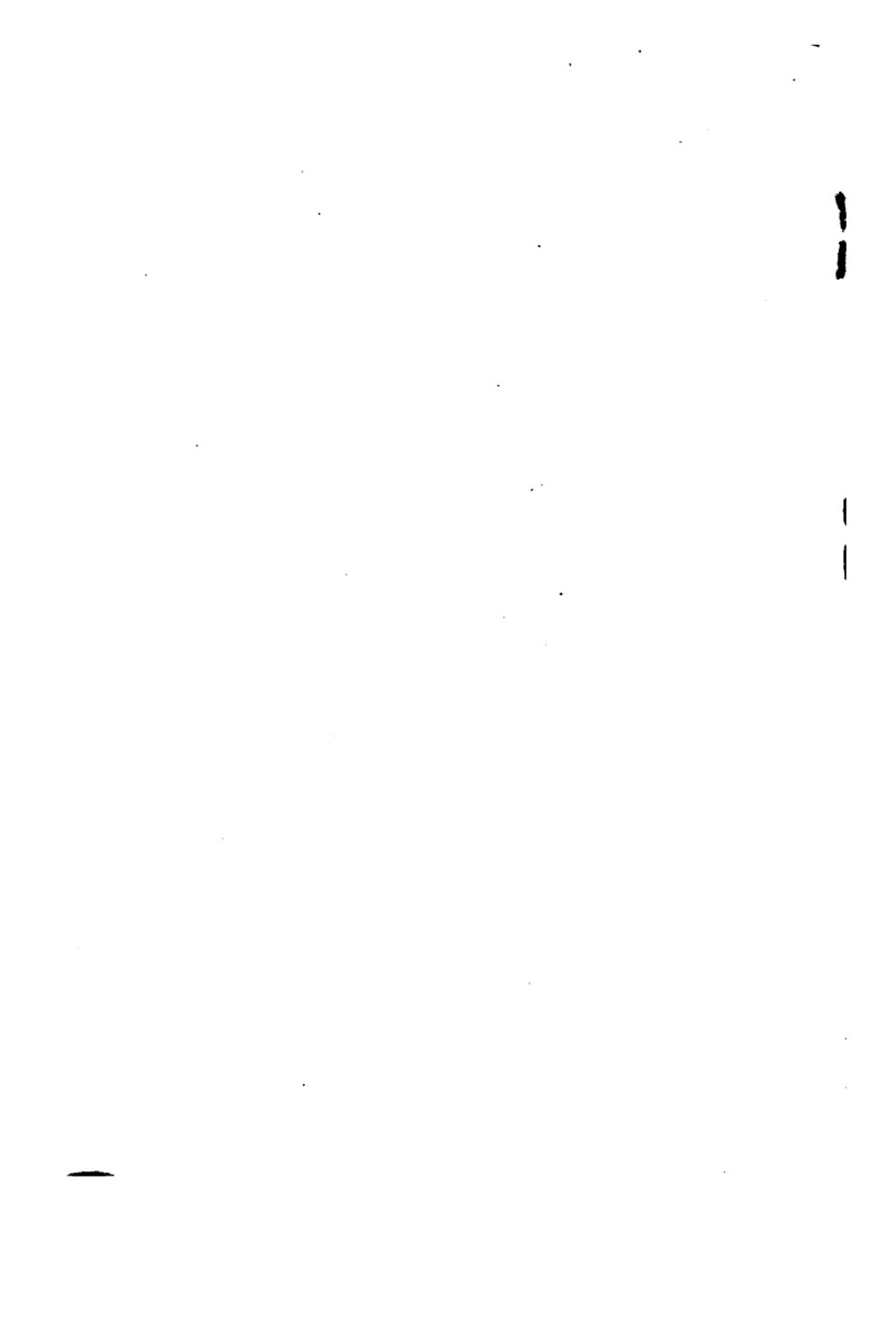


# The Mortgage Tax Law of the State of New York

*Being the Article Entitled  
"Tax on Mortgages"  
constituting*

**Article 11, Chapter 62 of the Laws of 1909  
as amended by**

**Laws of 1909, Chapter 412  
Laws of 1910, Chapter 601  
Laws of 1913, Chapter 665  
Laws of 1914, Chapter 398  
Laws of 1914, Chapter 399  
Laws of 1915, Chapter 447  
Laws of 1916, Chapter 323  
Laws of 1916, Chapter 335  
Laws of 1916, Chapter 336  
Laws of 1916, Chapter 337  
Laws of 1917, Chapter 72  
Laws of 1917, Chapter 485  
Laws of 1917, Chapter 573**



## ARTICLE 11

### Tax on Mortgages

#### Section 250. Definitions.

- 251. Exemption from local taxation.
- 252. Exemptions.
- 253. Recording tax.
- 254. Optional tax on prior mortgages.
- 255. Supplemental mortgages.
- 256. Mortgages for indefinite amounts or for contract obligations.
- 257. Payment of taxes.
- 258. Effect of nonpayment of taxes.
- 259. Trust mortgages.
- 260. Determination and apportionment by the State Tax Commission.
- 261. Payment over and distribution of taxes.
- 262. Expenses of officers.
- 263. Supervisory power of tax commission and comptroller
- 264. Tax on prior advance mortgages.

Sec. 250. Definitions. The term "real property," as used in this article, in addition to the definition thereof contained in Section Two of this chapter, includes everything a conveyance or mortgage of which can be recorded as a conveyance or mortgage of real property under the laws of the state. The term "mortgage," as used in this article, includes every mortgage or deed of trust which imposes a lien on or affects the title to real property, notwithstanding that such property may form a part of the security for the debt or debts secured thereby. Executory contracts for the sale of real property under which the vendee has or is en-

titled to possession shall be deemed to be mortgages for the purposes of this article and shall be taxable at the amount unpaid on such contracts. A contract or agreement by which the indebtedness secured by any mortgage is increased or added to, shall be deemed a mortgage of real property for the purpose of this article, and shall be taxable as such upon the amount of such increase or addition.

(As amended by Laws of 1916, Chapter 323.)

**Sec. 251. Exemption from local taxation.** All mortgages of real property situated within the state which are taxed by this article and the debts and the obligations which they secure, together with the paper writings evidencing the same, shall be exempt from other taxation by the state, counties, cities, towns, villages, school districts and other local subdivisions of the state, except that such mortgage shall not be exempt from the taxes imposed by sections twenty-four, to twenty-four-g, both inclusive, one hundred and eighty-seven, one hundred and eighty-eight, one hundred and eighty-nine and article ten of this chapter.

(As amended by Laws of 1917, Chapter 485.)

**Sec. 252. Exemptions.** No mortgage of real property situated within this state shall be exempt, and no person or corporation owning any debt or obligation secured by mortgage of real property situated within this state shall be exempt, from the taxes imposed by this article by reason of anything contained

in any other statute, or by reason of any provision in any private act or charter which is subject to amendment or repeal by the legislature, or by reason of non-residence within this state or for any other cause.

**Sec. 253. Recording tax.** A tax of fifty cents for each one hundred dollars and each remaining major fraction thereof of principal debt or obligation which is, or under any contingency may be secured at the date of the execution thereof or at any time thereafter by a mortgage on real property situated within the state recorded on or after the first day of July, nineteen hundred and six, is hereby imposed on each such mortgage, and shall be collected and paid as provided in this article. If the principal debt or obligation which is or by any contingency may be secured by such mortgage recorded on or after the first day of July, nineteen hundred and seven, is less than one hundred dollars, a tax of fifty cents is hereby imposed on such mortgage, and shall be collected and paid as provided in this article.

(As amended by Laws of 1916, Chapter 323.)

**Sec. 254. Optional tax on prior mortgages.** Whenever any mortgage other than a mortgage specified in section two hundred and sixty-four has been recorded prior to July first, nineteen hundred and six, the record owner thereof may file with the recording officer of the county in which the real property, or any

part thereof, on which said mortgage is a lien, is situated, a written statement under oath verified by the record owner or the agent or officer of such record owner describing such mortgage by giving the date of the same and the liber and page of the record thereof together with the names of the parties thereto, specifying the amount then remaining unpaid on the debt or obligation secured thereby, and electing that it shall become subject to the tax prescribed by section two hundred and fifty-three of this chapter. Whenever any unrecorded mortgage has been executed and delivered prior to July first, nineteen hundred and six, the owner thereof may record the same upon filing with the recording officer a similar statement and paying the tax as herein prescribed. A tax shall thereupon be computed, levied and collected upon the amount of the principal debt or obligation unpaid at the time of the filing of such statement, or of the recording of such mortgage and filing of such statement. On the payment of such tax as herein provided, the recording officer shall note on the margin of the record of such mortgage the fact of such statement and of the amount of the tax paid, attested by his signature, whereupon such mortgage and the debt or obligation secured thereby shall be entitled to the exemptions and immunities conferred by this article, and all of the provisions of this article shall thereafter be applicable to said mortgage. Whenever the original mortgage is presented to the clerk together with the statement he shall also note

on said original mortgage the fact of the filing of the said statement and also the amount of the tax paid duly attested by his signature, which indorsement shall be conclusive evidence of the payment of such tax.

**Sec. 255. Supplemental mortgages.** If subsequent to the recording of a mortgage on which all taxes, if any, accrued under this article have been paid, a supplemental instrument or mortgage is recorded for the purpose of correcting or perfecting any recorded mortgage, or pursuant to some provision or covenant therein, or an additional mortgage is recorded imposing the lien thereof upon property not originally covered by or not described in such recorded primary mortgage for the purpose of securing the principal indebtedness which is or under any contingency may be secured by such recorded primary mortgage, such additional instrument or mortgage shall not be subject to taxation under this article, unless it creates or secures a new or further indebtedness or obligation other than the principal indebtedness or obligation secured by or which under any contingency may be secured by the recorded primary mortgage, in which case, a tax is imposed as provided by section two hundred and fifty-three of this chapter on such new or further indebtedness or obligation, and shall be paid to the proper recording officer at the time such instrument or additional mortgage is recorded. If at the time of recording such instrument, or additional mortgage any exemption is claimed under this section, there shall be

filed with the recording officer and preserved in his office a statement under oath of the facts on which such claim for exemption is based. The determination of the recording officer upon the question of exemption shall be reviewable by the tax commission.

(As amended by Laws of 1916, Chapter 323.)

Sec. 256. Mortgages for indefinite amounts or for contract obligations. If the principal indebtedness secured or which by any contingency may be secured by a mortgage is not determinable from the terms of the mortgage, or if a mortgage is given to secure the performance by the mortgagor or any other person of a contract obligation other than the payment of a specific sum of money and the maximum amount secured or which by any contingency may be secured by the mortgage is not expressed therein, such mortgage shall be taxable under section two hundred and fifty-three of this chapter upon the value of the property covered by the mortgage, which shall be determined by the recording officer to whom such mortgage is presented for record, unless at the time of presenting such mortgage for record the owner thereof shall file with the recording officer a sworn statement of the maximum amount secured or which under any contingency may be secured by the mortgage. If such maximum amount is expressed in the mortgage or in a sworn statement filed as required by this section, such amount shall be

the basis for assessing the tax imposed by this article. A statement filed by the owner of a mortgage pursuant to this section shall thereafter at all times be binding upon and conclusive against such owner, the holders of any bonds or obligations secured by such mortgage and all persons claiming through the mortgagee any interest in the mortgage or the mortgaged premises. If the maximum amount secured or which by any contingency may be secured by the mortgage is not expressed in the mortgage or in a sworn statement as authorized by this section, the recording officer at the time such mortgage is offered for record may require the mortgagor or mortgagee to furnish him with proofs as to such facts as he deems necessary for the purpose of computing the value of the property covered by the mortgage and such proofs shall include an affidavit of appraisal of the value of the property made by at least two competent, disinterested persons and shall be preserved in his office. His determination and copies of the proofs as to the basis for computing the tax on such mortgage shall be forwarded to and subject to review by the state tax commission. Such mortgage shall not be recorded until the statement is filed or the proofs are furnished as required by this article.

(As amended by Laws of 1916, Chapter 323.)

Sec. 257. Payment of taxes. The taxes imposed by this article shall be payable on the recording of each mortgage of real property subject to taxes

thereunder. Such taxes shall be paid to the recording officer of any county in which the real property or any part thereof is situated. It shall be the duty of such recording officer to indorse upon each mortgage a receipt for the amount of the tax so paid. Any mortgage so indorsed may thereupon or thereafter be recorded by any recording officer and the receipt for such tax indorsed upon each mortgage shall be recorded therewith. The record of such receipt shall be conclusive proof that the amount of tax stated therein has been paid upon such mortgage.

Sec. 258. Effect of nonpayment of taxes. No mortgage of real property shall be recorded by any county clerk or register, unless there shall be paid the tax imposed by and as in this article provided. No mortgage of real property which is subject to the taxes imposed by this article shall be released, discharged of record or received in evidence in any action or proceeding, nor shall any assignment of or agreement extending any such mortgage be recorded unless the taxes imposed thereon by this article shall have been paid as provided in this article. No judgment or final order in any action or proceeding shall be made for the foreclosure or the enforcement of any mortgage which is subject to the tax imposed by this article or of any debt or obligation secured by any such mortgage, unless the taxes imposed by this article shall have been paid as provided in this article; and

whenever it shall appear that any mortgage has been recorded or that any advance has been made on a prior advance mortgage or on a corporate trust mortgage without payment of the tax imposed by this article there shall be paid in addition to the amount of the tax a sum equal to one per centum thereof for each month the tax remains unpaid, which sum shall be added to the tax and paid or collected therewith.

(As amended by Laws of 1916, Chapter 323.)

**Sec. 259. Trust mortgages.** In the case of mortgages made by corporations in trust to secure payment of bonds or obligations issued or to be issued thereafter, if the total amount of principal indebtedness which under any contingency may be advanced or accrue or which may become secured by any such mortgage which is subject to this article has not been advanced or accrued thereon or become secured thereby before such mortgage is recorded, it may contain at the end thereof a statement of the amount which at the time of the execution and delivery thereof has been advanced or accrued thereon, or which is then secured by such mortgage; thereupon the tax payable on the recording of the mortgage shall be computed on the basis of the amount so stated to have been so advanced or accrued thereon or which is stated to be secured thereby. Such statement shall thereafter at all times be binding upon and conclusive against the mortgagee, the holders of any bonds or obligations secured by such

mortgage and all persons claiming through the mortgagee any interest in the mortgage or in the mortgaged premises. Whenever a further amount is to be advanced under the original mortgage, or shall accrue thereon or become secured thereby, the corporation making such mortgage shall pay the tax on such amount at or before the time when such amount is to be advanced, accrues or becomes secured and shall, at the time of paying such tax, file in the office of the recording officer where such mortgage has been or is first recorded and with the tax commission a statement, verified by the secretary, treasurer or other proper officer, of said corporation of the amount of principal indebtedness to be so advanced, accruing or becoming secured, and the certification of any bond or bonds by the trust mortgagee shall be deemed an advance under this article. Such additional tax shall be paid to the recording officer where such mortgage has been or is first recorded and a receipt therefor shall be indorsed upon the mortgage and payment therefor shall be noted in the margin of the record of such mortgage and if requested a duplicate receipt for such payment shall also be given to the party paying such tax and the note of such payment or additional payment or such receipt shall have the same force and effect as the record of receipt of the tax which under this article is payable at or before the recording of the mortgage. If such additional tax is not paid as required by this section, the trust mort-

gagee shall not certify any bond or other obligation issued on account thereof. The corporation making such mortgage or the owner of the property which secures the mortgage debt shall annually within thirty days after July first, and until it shall appear by such statement that the maximum amount of principal indebtedness secured by such mortgage has been advanced, has accrued or become secured and the tax thereon paid, file in the office of the tax commission and the recording officer where such mortgage has been or is first recorded a statement, verified by the secretary, treasurer or other proper officer of said corporation, showing:

1. the name of the mortgagor and the mortgagee;
2. the date of the mortgage and the county where first recorded;
3. the maximum amount of principal debt or obligation which under any contingency may be secured by such mortgage;
4. the amount advanced on such mortgage during the year ending June thirtieth preceding, with the date and the amount of each advancement;
5. in the case of a mortgage recorded prior to July first, nineteen hundred and six, the first annual statement filed under this section as hereby amended, shall state the total amount advanced prior to July first, nineteen hundred and six, and the date and the amount of each subsequent advancement to the end of the period covered by the statement.

A failure to file any statement required by this section within the specified time shall subject the corporation or other person required to file such statement to a penalty of not less than one dollar nor more than one hundred dollars for each one thousand dollars of the maximum amount of principal indebtedness which is or under any contingency may become secured by the mortgage, which penalty in the aggregate shall not exceed the sum of five thousand dollars, recoverable by the attorney-general in an action brought in the name of the people of the state of New York.

(As amended by Laws of 1917, Chapter 573.)

**Sec. 260. Determination and apportionment by the state tax commission.** When the real property covered by a mortgage is situated in more than one tax district, the state tax commission shall deduct from the relative assessments of such real property in the respective tax districts covered by such mortgage any prior existing mortgage liens and shall then apportion the tax paid on such mortgage between the respective tax districts upon the basis of the relative assessments of such real property as the same appear on the last assessment-rolls less the deduction, if any. If, however, the whole or any part of the property covered by such a mortgage is not assessed upon the last assessment-roll or rolls of the tax district or districts in which it is situated, or is so assessed, as a part of a larger tract, that the assessed value cannot be determined, or if improvements have been made to such

an extent as materially to change the value of the property so assessed, the tax commission may require the local assessors in the respective tax districts, or the mortgagor, or mortgagee, to furnish sworn appraisals of the property in each tax district, and upon such appraisals shall determine the apportionment. If such mortgage covers real property in two or more counties, the tax commission shall determine the proportion of the tax which shall be paid by the recording officer who has received the same to the recording officers of the other counties in which are situated the tax districts entitled to share therein. When any recording officer shall pay any portion of a tax to the recording officer of another county, he shall forward with such tax a description sufficient to identify the mortgage on which the tax has been paid, and the recording officer receiving such tax shall note on the margin of the record of such mortgage the fact of such payment, attested by his signature. The tax commission shall make an order of determination and apportionment in respect to each such mortgage and file a certified copy thereof with the recording officer of each county in which a part of the mortgaged real property is situated.

When the real property covered by a mortgage is partly within the state and partly without the state it shall be the duty of the tax commission to determine what portion of the mortgage or of advancements thereon shall be taxable under this article. Such determination shall be made in the following manner:

First: Determine the respective values of the property within and without the state, and deduct therefrom the amount of any prior existing mortgage liens, excepting such liens as are to be replaced by the advancements under consideration. Second: Find the ratio that the net value of the mortgaged property within the state bears to the net value of the entire mortgaged property. Third: Make the determination of the portion of the mortgage or of the advancements thereon which shall be taxable under this article by applying the ratio so found. If a mortgage covering property partly within and partly without the state is presented for record before such determination has been made, or at the time when an advance is made on a corporate trust mortgage or on a prior advance mortgage, there may be presented to the recording officer a statement in duplicate verified by the mortgagor or an officer or duly authorized agent of the mortgagor, in which shall be specified the net value of the property within the state and the net value of the property without the state covered by such mortgage. One of such statements shall be filed by the recording officer and the other shall be forthwith transmitted by him to the state tax commission. The tax payable under this article before the determination by the tax commission shall be computed upon such portion of the principal indebtedness secured by the mortgage, or of the sum advanced thereon, as the net value of the mortgaged property within the state bears to the net value of the entire

mortgaged property as set forth in such statement. The tax commission shall on receipt of the statement from the recording officer and on not less than ten days' notice served personally or by mail upon the mortgagor, the mortgagee and the state comptroller, proceed to make the required determination. In determining the separate values of the property within and without the state the tax commission shall consider only the tangible property, real and personal, except that leases of real property shall be deemed tangible property. For the purpose of determining such value the tax commission may require the mortgagor or mortgagee to furnish by affidavit or verified report such information or data as it may deem necessary, and may require and take the testimony of the mortgagor, mortgagee or any other person. A certified copy of the order of determination and apportionment shall be delivered personally or by mail to the mortgagor, the mortgagee and the state comptroller, and any tax under such determination which has not been paid shall be paid within ten days after service of such certified copy; if, however, the tax paid at the time of filing the statement hereinbefore specified with the recording officer is in excess of the tax determined to be payable, the certificate of determination and apportionment shall direct the recording officer to refund to the person paying such tax the amount of such excess; provided that no refund shall be made of any taxes paid pursuant to a previous determination.

The tax commission shall adopt rules to govern the procedure and the manner of taking evidence in all the matters provided for by this section and may require verified statements to be furnished either by boards of assessors, recording officers or other persons having knowledge in relation to such matters. Failure on the part of any person or officer to furnish a statement or other data when required so to do pursuant to the provisions of this section shall render such person or officer liable to a penalty of one hundred dollars, to be recovered by the attorney-general in an action brought in the name of the people of the state of New York.

In making determination and apportionment under this section the tax commission shall consider all advancements made upon a mortgage after July first, nineteen hundred and six, in the aggregate, which aggregate shall be obtained by adding all advancements made after July first, nineteen hundred and six, to the last advancement and the total shall be treated as a whole mortgage, considering the status of the property as of the time the last advancement is made. In all cases under this section in which it shall appear that the prior incumbrances exceed the assessed or appraised value of the property in one or more tax districts the commission may, by a process of equalization or otherwise, establish a basis of apportionment that will be equitable and fair.

(As amended by Laws of 1917, Chapter 72.)

Sec. 261. Payment over and distribution of taxes. Upon the first day of each month the recording officer of each county shall pay over to the county treasurer all moneys received during the preceding month upon account of taxes paid to him as herein prescribed, after deducting the necessary expenses of his office as provided in section two hundred and sixty-two, except taxes paid upon mortgages which under the provisions of section two hundred and sixty are to be apportioned by the tax commission between several counties, which taxes and money shall be paid over by him as provided by the determination of said tax commission within five days after the filing of said determination in his office. The county treasurer of each county shall on the first day of January, April, July and October in each year, after having deducted the necessary expenses of his office provided in section two hundred and sixty-two, transmit one-half of this net amount collected under the provisions of this article to the state treasurer and shall receive from the state treasurer a receipt therefor countersigned by the comptroller. And the remaining portion thereof in the counties of New York, Kings, Queens, Richmond and Bronx shall be paid into the general fund of the city of New York and be applied to the reduction of taxation, and in the other counties of the state the remaining portion shall be held by the respective county treasurers subject to the order of the board of supervisors as hereinafter provided.

Prior to the first day of November in each year the recording officer shall cause to be prepared a statement containing a description of all mortgages upon which taxes have been paid by a reference to the date of each mortgage, the name of the mortgagor and mortgagee, the amount of the principal debt upon which the tax was paid together with the book and page where said mortgage is recorded, together with the tax district in which the mortgaged property is situated, and if situated in two or more tax districts the amount apportioned to each tax district by the tax commission, and the amount deducted for his necessary expenses as approved by the tax commission and shall file the statement with the clerk of the board of supervisors, and a copy thereof with the tax commission. The boards of supervisors of the several counties shall, on or before the fifteenth day of December in each year, ascertain from the statement filed with their clerk by the recording officer the location of the mortgaged property with respect to the several tax districts and the amount of tax properly to be credited to each tax district, which shall be applicable to the payment of state, county and city, or town expenses; except that where a town contains within its limits an incorporated village, or portion thereof, the supervisors shall apportion to the village or villages so much of the share credited to the said town as the assessed value of said village or portion thereof bears to twice the total assessed valuation of the town, and the remaining balance shall be

applicable to the payment of state, county and town taxes. The board of supervisors of each county, on or before the fifteenth day of December each year, shall determine the respective sums applicable hereunder to each of the foregoing purposes and shall issue their warrant for the payment to the city treasurer or town supervisor of the amount payable to said city or town, and their warrant for the payment to the village treasurer of the sum of money to which the village shall be entitled, which sum shall be credited to the general fund of the village.

(As amended by Laws of 1916, Chapter 323.)

**Sec. 262. Expenses of officers.** Recording officers and county treasurers shall severally be entitled to receive all their necessary expenses for the purposes of this article, including printing, hire of clerks and assistants, being first approved and allowed by the tax commission, which shall be retained by them out of the moneys coming into their hands.

(As amended by Laws of 1916, Chapter 323.)

**Sec. 263. Supervisory power of tax commission and comptroller.** The tax commission shall have general supervisory power over all recording officers in respect of the duties imposed by this article and they may make such rules and regulations for the government of recording officers in respect to the matters provided for in this article as they may

deem proper, provided that such rules and regulations shall not be inconsistent with this or any other statute. Whenever a duly verified application for a refund of mortgage taxes, erroneously collected by a recording officer, is made to the tax commission it shall be the duty of such commission to determine the amount that has been erroneously collected and make an order directing such recording officer to refund the amount so determined from mortgage tax moneys in his hands, or which shall come to his hands, to the party entitled to receive it and charge such amount back to the tax district that may have been credited with the same. If any recording officer shall have collected and paid over to the treasurer of any county a tax paid upon a mortgage which under the provisions of section two hundred and sixty of this chapter is to be apportioned by the tax commission between several counties before such apportionment has been made, or if any recording officer shall have paid over to such treasurer more money than required on account of mortgage taxes such recording officer shall make a report to the tax commission in the form of a verified statement of facts and said commission shall determine the method of adjustment and issue its order accordingly. The comptroller shall have general supervisory power over all county treasurers in respect to the duties imposed upon them by this article, and may make such rules and regulations, not inconsistent with this or any other statute, for the government of said county treasurers as he

deems proper to secure a due accounting for all taxes and moneys collected or received pursuant to any provision of this article. All recording officers and county treasurers shall furnish such bond, conditioned for the faithful and diligent discharge of the duties required of them respectively by this article, to the people of the state, within such time, with such sureties and in such penal amount, not exceeding twenty-five thousand dollars, as the comptroller may prescribe. The provisions of this section shall cover all transactions subsequent to July first, nineteen hundred and five.

(As amended by Laws of 1916, Chapter 336.)

**Sec. 264. Tax on prior advance mortgages.** Whenever any part of the amount of the principal indebtedness which is or under any contingency may be secured by a mortgage recorded prior to July first, nineteen hundred and six, is advanced after July first, nineteen hundred and six, the tax prescribed by section two hundred and fifty-three of this article is hereby imposed on the amount of principal indebtedness so advanced, which tax shall be payable at the same time and in the same manner as taxes imposed by section two hundred and fifty-nine of this article, and all the provisions of section two hundred and fifty-nine in relation to the time and manner of paying such tax, the filing of statements in relation to the time and amount of such advances, and penalties for failure to file the same shall apply to advances made under this

section and the payment of a tax thereon, except that if the mortgagor is not a corporation, such statements shall be filed by the owner of the mortgage, who, for failure to do so, shall be subject to the penalties prescribed by such section. In case said mortgage was given to secure the payment of a series of bonds, the mortgagor may, at the time of paying such tax, present to the recording officer, the bonds representing the portion of the principal indebtedness secured by said mortgage upon which the tax is to be paid, and also file with said recording officer a statement verified by the mortgagor or an officer or duly authorized agent or attorney of the mortgagor specifying that said bonds, so presented, are the bonds representing that portion of the principal indebtedness secured by said mortgage upon which the tax is to be paid and that said bonds are secured by a mortgage recorded in said office stating the date of said mortgage and the liber and page of the record of the same. It shall be the duty of such recording officer to indorse upon each of said bonds, so presented to him, a statement signed by him to the effect that the tax imposed by this article on that portion of the principal indebtedness secured by said mortgage represented by said bonds has been paid, and said statement shall be conclusive proof of such payment. Notwithstanding the exception contained in section two hundred and fifty-four, the record owner of any mortgage recorded prior to July first, nineteen hundred and six, other than a corporate trust mort-

gage, may file in the office of the recording officer where such mortgage is first recorded a statement in form and substance as required by section two hundred and fifty-four of this article, except that it shall specify and state the amount of all advancements made thereon prior to said date, giving the date and amount of each advancement and the amount of such prior advancements remaining unpaid, and thereby elect that the same be taxed under this article; and any mortgagor or mortgagee under a corporate trust mortgage given to secure a series of bonds or the owner of any such bond or bonds secured thereby may file in the office of the recording officer where such mortgage is first recorded a statement in form and substance as required by section two hundred and fifty-four of this article, except that it shall specify the serial number, the date and amount of each bond and otherwise sufficiently describe the same to identify it as being secured by such mortgage, and thereby elect that such bond or bonds be taxed under this article, and such bond or bonds shall be taxed upon the whole amount thereof notwithstanding the provisions of section two hundred and sixty of this article. A tax shall thereupon, in the case of mortgages other than corporate trust mortgages, be computed, levied and collected upon the amount of the principal debt or obligation represented by said unpaid prior advancements at the time of filing such statement, or, in the case of a corporate trust mortgage, upon the amount of

the bond or bonds specified in the statement filed, at the rate prescribed by section two hundred and fifty-three of this article. Said bonds representing prior advancements under corporate trust mortgages and taxed as herein provided may be presented to the recording officer, whose duty it is to collect said tax, for indorsement and he shall thereupon indorse upon each of said bonds a statement, attested by his signature, of the payment of the tax as provided in this section in respect to bonds representing subsequent advancements, and the record owner of any other mortgage taxed upon prior advancements as herein provided may present said mortgage to the recording officer and thereupon such officer shall note upon the same the filing of the statement and the amount of the tax paid, attested by his signature. In all such cases the recording officer shall note on the margin of the record of such mortgage the filing of such statement and the amount of the tax paid, and, in case of bonds secured by corporate trust mortgages, the serial number of each such bond. The words "bond" and "bonds" as used in this section shall be deemed to embrace all notes or other evidences of indebtedness secured by mortgages taxable under this section. In case of any mortgage taxable under this section, the portion of the indebtedness secured thereby upon which the tax imposed by this section is paid, and such portion only, shall be exempt from taxation under the provisions of section two hundred and fifty-one of this article. Whenever the tax imposed by

section two hundred and sixty-four of this article as said section existed prior to May thirteenth, nineteen hundred and seven, has been paid with respect to any mortgage, no additional tax shall accrue on such mortgage under this section as hereby enacted and such mortgage and the debt or obligation secured thereby shall continue to be entitled to the exemptions and immunities conferred by this article and all of the provisions of this article shall remain applicable to such mortgage. All taxes imposed by or which became due, payable or collectible on or before the thirtieth day of June, nineteen hundred and six, pursuant to chapter seven hundred and twenty-nine of the laws of nineteen hundred and five, and all taxes which under section two hundred and fifty-eight of this chapter became due and payable on the thirtieth day of July, nineteen hundred and six, and all other taxes, if any, which were imposed by chapter seven hundred and twenty-nine of the laws of nineteen hundred and five on any mortgage recorded prior to the first day of July, nineteen hundred and six, in respect to any period ending on or before the first day of July, nineteen hundred and six, shall be imposed, become due, be payable and collectible and shall be paid over and distributed in the same manner, and with the same force and effect as if this article had not been enacted; and for the purpose of collecting, paying over, distributing and enforcing any such taxes, chapter seven hundred and twenty-nine of the laws of nineteen hundred and five shall be deemed

to be in force, and the lien for such taxes shall attach and such taxes shall be levied and collected as provided in chapter seven hundred and twenty-nine of the laws of nineteen hundred and five, anything herein contained to the contrary notwithstanding.

(As amended by Laws of 1916, Chapter 387.)

Sec. 265. Tax a lien; exceptions.—The tax in this article imposed shall be deemed and is hereby declared to be a lien upon the mortgage upon which such tax is imposed and upon the debt or obligation secured thereby, except that upon mortgages recorded prior to July first, nineteen hundred and six, such lien shall extend only to that portion thereof represented by the amount advanced subsequently to such date and to the debt or obligation secured by such advancement, and for the purpose of enforcing the payment of the tax in this article imposed, such mortgage and the debt thereby secured shall be deemed to be property within this state notwithstanding that such mortgage may be owned by or be in the possession of a person or corporation outside the state, and a copy thereof duly certified by the recording officer of any county in which such mortgage is recorded shall, for the purpose of enforcing the payment of such tax, be deemed to be, and shall have the same force and effect as the original mortgage and may be sold to satisfy such tax and upon a sale of the whole or any part thereof, shall carry with it and transfer to the purchaser all the rights, interests and obligations of the

mortgagee therein named or his assignee or successor in interest in and to such mortgage and the debt secured thereby, or the part thereof to which such lien attaches, together with interest and costs.

(As amended by Laws of 1916, Chapter 323.)

**Sec. 266. Enforcement; procedure.**—In case the tax imposed by this article is not paid as in this article provided, the tax commission may notify the attorney-general of such failure or refusal to pay and it shall then be the duty of the attorney-general to enforce the payment of such tax, and for that purpose he may maintain an action in the name of the people of the state of New York, in any court of competent jurisdiction, either to sell such mortgage, or he may maintain an action against the mortgagee or his assignee or successor in interest personally, or, where by stipulations contained in such mortgage it is made the duty of the mortgagor to pay such tax, then against the mortgagor or his successor in interest personally; or, in the case of a trust mortgage against the trust mortgagee, personally; or he may pursue either, any or all such remedies. All actions instituted by the attorney-general, as herein provided, shall, if the amount involved is fifty dollars or more, be brought in the county of Albany. Where, in any action, a recovery is had there shall be added to the amount of such tax and included in the judgment, interest at the rate of one per centum per month on the

amount of such tax, to be computed from the date on which such tax became due and payable, except that in the case of taxable mortgages heretofore recorded and upon which the tax imposed by this article has not been paid, and where, in such case, no penalty is prescribed by law for the nonpayment of such tax, interest shall be added at the rate of six per centum per annum. In any action brought as herein provided, where the judgment provides for the sale of the mortgage, such judgment shall also prescribe the time, place and manner of such sale and of the notice thereof to be given, and, in the discretion of the court, may direct that such sale be made by or under the direction of the comptroller or the recording officer of the county in which such mortgage was first recorded, and all money recovered in such action shall be paid by the attorney-general to the proper recording officer in satisfaction of such tax, and all costs recovered therein shall be paid into the state treasury.

(As amended by Laws of 1916, Chapter 323.)

Sec. 267. **Idem; where recovery is had against trust mortgagee.**—In every case where recovery is had personally against a trust mortgagee as herein provided, and payment of the amount recovered has been made by such trust mortgagee, or where such trust mortgagee has voluntarily paid such tax, he shall be deemed to have and possess and to have become subrogated to all the rights and interests in and

to the tax lien imposed by section two hundred and sixty-five hereof, and may enforce the repayment of any such sum so paid by him with interest at the rate of six per centum per annum and for that purpose may maintain an action in his own name in any court in the state having jurisdiction, against any person, association or corporation liable to pay such tax, or for the sale of such mortgage and the debt secured thereby to which such lien attaches.